

**MEETING OF THE BOARD FOR PROFESSIONAL  
ENGINEERS AND LAND SURVEYORS**

**2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, California, 95833  
(916) 263-2222**

**Thursday, July 31, 2008**

**Board Members Present:** Richard Lyons, President; Patrick Tami, Vice President; Gregg Brandow; James Foley; David Luzuriaga; Ray Satorre; Jerry Silva; and Michael Trujillo.

**Board Members Absent:** Kim Blackseth and Mike Modugno.

**Board Staff Present:** Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Joanne Arnold (Assistant Executive Officer); Ric Moore (PLS Staff Consultant); Linda Brown (Administrative Manager); Debbie Thompson (Budget Analyst); Gary Duke (Legal Counsel); and Rita Lane (Attorney General).

President Lyons swore in new Board member David Luzuriaga. President Lyons also reported that Vice President Tami was elected NCEES Western Zone Vice President.

**1. Roll Call to Establish a Quorum**

The meeting was called to order by President Lyons at 9:10 a.m. Roll call was taken, and there was a quorum.

Mr. Silva arrived at 9:15 a.m.

**2. Public Comment**

Mr. Wulfert, PLS, provided a handout outlining his remarks. Mr. Wulfert requested that the Board look into having field presence to have timely enforcement, especially for unlicensed activity. He also indicated that County Surveyors are not checking submitted maps within 20 days.

Vice President Tami stated that others have brought similar comments to the CLSA meetings, and he indicated that he would like this issue to be discussed by the LSTAC.

Ms. Christenson reported that there has been a request from the public that the Board adopt regulations to grant licensure by eminence.

Mr. Foley asked how the process would work. Mr. Duke explained that the applicant would qualify for licensure by experience only rather than examination and experience. He advised that it is a very subjective process and that the Board has always been very reluctant to pursue such a process.

The Board indicated that it has no interest in pursuing adopting regulations to grant licensure by eminence.

**3. Election of Board President and Vice President (Possible Action)**

President Lyons reported that Mr. Blackseth had expressed interest in serving as Vice President of the Board. President Lyons opened the floor to nominations.

**MOTION:** Dr. Brandow/Mr. Foley moved to nominate and elect Vice President Tami for President and Mr. Blackseth for Vice President.

Mr. Foley reminded the Board that any Board member could nominate himself or others.

**MOTION:** Mr. Satorre/Mr. Silva moved to close nominations.

**VOTE:** 8-0, motion to close nominations carried.

**VOTE:** 8-0, motion to nominate and elect carried.

**4. Incoming Board President Takes Office**

President Tami took office.

**5. Written Contract Requirements (Possible Action)**

Dr. Brandow indicated that questions had been raised regarding whether or not contracts for professional services had to be signed by the licensee rather than the unlicensed business officer manager or an unlicensed corporate officer.

Ms. Eissler advised that the law requires that a licensee sign the contract, but that it is acceptable for an unlicensed person to co-sign the contract with the licensee. She stated that it protects the licensees from not knowing what is in the contract.

Mr. Luzuriaga stated that is also prevents “stamps for hire.”

Ms. Christenson stated that legislation would have to be enacted to change the language in the law to allow unlicensed individuals to sign on behalf of the

licensee. She also suggested that an article could be written and posted on the Board's website clarifying the requirements.

President Tami stated that language is very important to have in the law to protect both the licensees and the clients.

Dr. Brandow asked if proposals were considered contracts and would have to meet the requirements of the laws. Ms. Eissler explained that if the proposal is signed by both parties, then it becomes contract and must meet the requirements.

The Board agreed that it did not want to change the language in the laws. President Tami directed staff to prepare an article for posting on the Board's website clarifying the requirements of the law.

**6. Review and Approval of 2008-2010 Strategic Plan (Possible Action)**

President Tami tabled this item until the next Board meeting. He requested that any suggestions regarding changes to the Strategic Plan be sent to Ms. Christenson. He also directed staff to obtain from DCA all of the information and notes that were prepared at the Strategic Planning Session so that the Board could review that at its next meeting.

**7. Early Admission Process to the PE and PLS Examinations (Possible Action)**

Ms. Christenson reported that there has been positive feedback from the press release that DCA issued on our behalf and that we have received many contacts from interested applicants wanting to know more about the process.

**8. Approval of Delinquent Reinstatements (Possible Action)**

**MOTION:** Mr. Lyons/Mr. Foley moved to approve the Delinquent Reinstatements in the agenda and the handout provided at the Board meeting as follows:

**CIVIL**

**JAMES HAWALD**

Reinstate applicant's civil license once he takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**ALEXANDER JOHNSON**

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**CHWEN-I TERENCE LIU**

Reinstate applicant's civil license once he takes and passes the seismic principles examination, the engineering surveying examination, and the Board's Laws and Regulations Examination.

**MICHAEL TISCHUK**

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**MECHANICAL**

**RICK DORAN**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**MATTHEW EBEJER**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**ROBERT FENG**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**DOUGLAS FOOTE**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**WAYNE HOLLEY**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination.

**THOMAS HUGHES**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**WILLIAM PANTOS**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

**VOTE:** 8-0, motion carried.

**9. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Mr. Satorre/Mr. Silva moved to approve the Handout Comity List.

**VOTE:** 8-0, motion carried.

**10. Administration**

**a. Fund Condition**

Ms. Thompson reported that the Board recently received the FY 2007-08 year-end reports which shows \$10,543,000 for Fiscal Year 2007-08. The FY 2011-12 is highlighted because it is the year the Board is projected to fall below a 3-month reserve and revenue begins to decline after this FY. Another addition to the Fund Condition is the \$2 million General Fund loan in FY 2009-10. The Governor's Budget May Revision for FY 2008-09 identifies the Board will loan \$4 million; however, DCA information received later changed the amount to \$2 million. The May Revision states the loan is to be repaid in FY 2011-12 or later. The reimbursement projection has also been adjusted to \$50k as this is the average received each FY.

**b. Fiscal Year 2007-08 Budget**

Ms. Thompson reported the year-end expense reports recently received show a \$121,000 balance after expenses. The reduction in expenses from earlier projections is because a DCA prorata adjustment was made for I-Licensing savings.

The Board's FY 2008-09 will be summarized after the 2008 Budget Act is signed into law. The projected expenses to date for next FY are \$9,424,851, leaving a balance after expenses of \$11,149. The projections assume reductions will occur in overtime, temporary help, printing, subject matter experts, and equipment.

**c. FY 2008-09 & 2009-10 Budget Change Proposals**

The FY 2008-09 BCP to redirect contract funding into a civil service registrar position for the Land Surveyor Program will become effective January 1, 2009, when the 2008 Budget Act is signed into law by the Governor.

Only one of the Board's three FY 2009-10 BCP concepts identified below was submitted. DCA decided the NCEES exam population increase BCP needed to be incorporated into the NCEES Exam Liability BCP as they related to the same subject matter. The Exam Liability BCP will free up over expenditures in the Exams program now paid for with excess Enforcement Program funding and should allow an increase for the Expert Witness hourly rate.

- 1) NCEES Exam Liability (NCEES Administration of Board Exams)  
- Submitted
- 2) NCEES Exam Population Increase
- 3) Expert Witness Rates
- 4) Lease Space Increase

**d. Land Surveyor Position**

Since early April, the SER classification amendment proposal has been under review at by the DCA Classification and Pay Unit. The proposed amendments are needed to hire a Board Land Surveyor Registrar requested in the FY 2008-09 BCP. It is likely this proposal is pending until such time as the FY 2008-09 Land Surveyor Redirection BCP is approved.

**e. Publication Review**

Ms. Eissler reported that the Guide for Local Officials is now under review by the Enforcement staff for update. She requested that two Board members assist in reviewing the final draft. President Tami and Dr. Brandow volunteered to review the guide. Ms. Eissler explained that once staff has finalized the guide, based on the comments from President Tami and Dr. Brandow, it will then be reviewed by Mr. Duke as part of the publication process. Mr. Foley suggested that the guide be made available on the website rather than printing copies. Ms. Eissler said that it is usually best to have printed copies available as well as posting the publications on the website.

Ms. Eissler also reported that the Enforcement staff is updating the Technical Expert Manual for Expert Witnesses, and that Board staff is also working on a contract with a private company who will publish the Board's laws in a booklet with CD of laws; the company will sell the laws to individuals who request the Board's laws.

**f. NCEES Exam Application Fee Increase**

The Board's expenses are projected to exceed revenue by FY 2012-13 which will cause the fund reserve to drop to less than a 3-month reserve in FY 2011-2012. This means that unless revenue increases beyond projections, the Board will need to increase fees effective for FY 2010-2011 to ensure an adequate fund reserve is available. The average cost per applicant sitting for the Board's professional licensing exams is above \$300 per examinee- -or \$25 more than what the Board charges applicants. This cost includes application processing, state-specific exam development, exam administration and exam grading expenses. Implementation of a fee increase requires regulation approval and business process changes that can take anywhere from one to two years time to complete. Board staff will continue to monitor revenue to determine the accuracy of current projections.

**g. Applicant Direct Payment of National Exam Applicant Fees & Administration of Exams**

The NCEES administration of all the Board's exams will occur upon approval of the FY 2009-10 BCP. However, it is not now feasible to require applicants to pay directly to NCEES in a bad economy because the total fees they'd have to pay both the Board and NCEES will be too

high. This would have a negative impact upon individuals seeking licensure.

## **11. Enforcement**

Ms. Eissler reviewed FY 2007/2008 statistics as included in the agenda packet. She reported that so far in July, 27 cases have been opened and 47 cases have already been closed with another 16 waiting to be reviewed and approved for closure.

President Tami thanked the Enforcement Unit for a job well done.

Ms. Eissler also reviewed the Reporting of Legal Actions Program statistics included in the agenda packet. President Tami questioned if there should be the same number of reports received from insurance companies as licensees since both are required to report. Ms. Eissler explained that there would not necessarily be a correlation since some licensees do not have insurance, some of the reports relate to criminal convictions, and licensees have 90 days to submit their reports while the insurance companies have only 30 days.

## **12. Legislative**

### **a. Discussion of Proposed Legislation for 2008, including, but not limited to, AB 1925, AB 2423, AB 2427, AB 2603, AB 2793, SB 721, SB 963, SB 1312, SB 1494, SB 1779, and SB 1780 (Possible Action)**

Ms. Arnold reviewed AB 1925, which would require the suspension of a license if the Franchise Tax Board determines that a licensee has not paid taxes.

President Tami stated that suspending a person's license would prevent them from working, which would prevent them from earning money to pay the taxes. Mr. Foley expressed concern that this could cause an increase in unlicensed activity.

**MOTION:** Mr. Foley/Mr. Luzuriaga moved to oppose AB 1925.

**VOTE:** 8-0, motion carried.

Ms. Arnold reviewed SB 1780, which is the omnibus bill that contains language sponsored by the Board to amend the laws so that the Board would no longer have to approve individuals for licensure, which would delegate the authority to the Executive Officer to determine that applicants have met all of the qualifications for licensure; this would allow licenses to be issued on a flow basis, rather than waiting for the Board to meet.

**MOTION:** Mr. Lyons/Mr. Luzuriaga moved to support SB 1780.

**VOTE:** 8-0, motion carried.

Ms. Arnold reviewed AB 2423, AB 2427, AB 2603, AB 2793, SB 963, SB 1312, and SB 1494 and advised that there was no need to change the Board's previously adopted positions on any of them.

**b. Regulation Status Report**

No report given.

**13. Technical Advisory Committee TAC Reports**

**a. Board Assignments to TACs (Possible Action)**

President Tami indicated that the LSTAC would review issues regarding unlicensed activity and make recommendations to the Board as needed.

President Tami introduced Paul Enneking, the new LSTAC member.

**b. Appointment of TAC Members (Possible Action)**

No action taken.

**14. Liaison Reports (Possible Action)**

**a. ABET**

Ms. Christenson reported that visits are being scheduled and that volunteers are needed.

President Tami volunteered to go to Cal Poly, San Luis Obispo. Mr. Lyons and Mr. Trujillo both volunteered to go to Maritime Academy; they will check their schedules and advise Ms. Christenson as to their availability. Mr. Luzuriaga volunteered to go to California State University, Fullerton.

**b. NCEES**

**1. 2008 NCEES Annual Meeting (Possible Action)**

The meeting will be held in Minnesota in August. Ms. Christenson, Dr. Brandow, Mr. Foley, and President Tami will be attending.

President Tami reported that most of the proposed changes to the Constitution are minor. A handout was provided on the Western Zone Resolution regarding BS Plus 30 opposition.

**c. Technical and Professional Societies**

No report given.

**15. President's Report**

No report given.

**16. Executive Officer's Report**

**1. Administration Report**



- a. **College Outreach**  
No further report given.
- 2. **Personnel**
  - a. **New Hires**  
No report given.
  - b. **Vacancies**  
Ms. Christenson reported that there is a vacancy in Examination Development Unit since Julie Campbell-Warnock accepted a position at the Board for Registered Nurses.
- 3. **Enforcement/Examination/Licensing**
  - b. **College Outreach**  
No report given.
  - c. **Report on Enforcement Activities**  
No further report given.
  - d. **Report on Examination Activities**  
No further report given.
- 4. **Publications/Website**
  - a. **Website Activity Statistics**  
No further report given.
- 5. **Other –**
  - a. **DCA Update**  
Ms. Christenson reported on the Governor's Executive Order related to the State operating without a budget. She explained that it contains other provisions besides the salary reduction which has been reported in the news. She advised that it also orders all personal services contracts suspended, which includes Technical Experts who review enforcement cases, Subject Matter Experts (SMEs) who work on examination development, Mr. Moore's contract, and the contracts with the examination vendors; and it terminates all employees classified as "Temporary Help," which includes the Retired Annuitant in the Enforcement Unit, the intermittent employees in the Examination Administration and Licensing Units, and the examination proctors. Ms. Christenson advised that the Executive Order did allow agencies to request exemptions under certain specific criteria. She indicated that the exemption requests to continue the examination vendor contracts, the SMEs' contracts, Mr. Moore's contract, and an IT contract to work on the Applicant Tracking System were granted; however, we have lost our temporary help staff and our ability to have Technical

Experts review enforcement cases during the month of August. Ms. Christenson advised that additional exemptions could be requested at a later date if there was still no budget in place.

**17. Other Items Not Requiring Board Action**

**Date of Next Board Meeting: September 25 & 26, 2008, Sheraton Mission Valley Hotel, San Diego, California.**

No further report given.

**18. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]**

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)
- b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)
- c. Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160
- d. **Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))**

**19. Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically: Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160; and tactics and strategy regarding the Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations and approved the cut scores from the April 2008 examinations as follows:

- |                |                |
|----------------|----------------|
| • EIT          | Pass/Fail Only |
| • LSIT         | Pass/Fail Only |
| • Chemical     | Pass/Fail Only |
| • Electrical   | Pass/Fail Only |
| • Mechanical   | Pass/Fail Only |
| • Civil 8-hour | Pass/Fail Only |

- Seismic Principles Score of 153 out of 295
- Engineering Surveying Score of 183 out of 300
- National Structural Pass/Fail Only
- National Land Surveyor Pass/Fail Only
- State Specific Land Surveyor Score of 221 out of 400

Ms. Christenson reported that the Board approved the revised appeal scores of the October 2006 NCEES National Structural II Examination.

Ms. Christenson reported that the Board approved a Comity candidate for licensing as a Fire Protection Engineer.

Ms. Christenson reported that the Board adopted the Proposed Decision regarding Michael James Martin.

**20. Approval of Consent Items (Possible Action)**

**(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)**

- a. **Approval of the Minutes of the May 8 & 9, 2008, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

**MOTION:** Mr. Silva/Mr. Foley moved to approve the consent items.

**VOTE:** 8-0, motion carried.

**21. Adjourn**

The Board adjourned at 12:40 p.m.

**PUBLIC PRESENT**

D'Arcy McLeod, PEGG

Brian Clifford, DCA

William Hofferber, CLSA

Craig Copelan, PEGG

Annette Lockhart

Paul Enneking, ACEC-CA (Formerly CELSOC)

Arthur Duffy, P.E.